

**Washington County Land Use Authority Meeting**  
**September 28, 2010**  
**(Recording available)**

The Washington County Land Use Authority Meeting was held on Tuesday, September 28, 2010 at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Mike Stucki. Commissioners present: Joann Balen, Kim Ford, Doug Wilson, Dave Everett and Rick Jones. Also present: John Willie, Senior Planner; Deon Goheen, Planning & Zoning Administrator; Rachelle Ehlert, Deputy Attorney; Kurt Gardner, Building Official; Todd Edwards, Public Works Engineer; Dean Cox, County Administrator; Jim Eardley, County Commissioner; Alan Gardner, County Commissioner; and Darby Klungervik, Planning Secretary.

Excused: Julie Cropper and Debora Christopher

Audience attendance: Ty Bringham, Monte Kester, LaVerna B. Johnson, Sheldon Johnson

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

**Item #1. SPECIAL MEETING:** **STAFF COMMENTS** Review staff comments for each item listed below. Staff initiated.

**Item #2. CONDITIONAL USE PERMIT** Request permission to locate an office trailer, gas storage, and porta potties near an approved staging area for pipe storage yard for UNEV Pipeline on 2 acres of the Bowler arena property in Veyo. Sterling Construction Management, LLC/Monte Kester, Business Development agent. *(Tabled September 14, 2010)*

The Planner noted that this item was tabled at the previous meeting to allow the applicant time to meet the site plan requirements for a site drawing and review from the NW Fire District and community council. Steve Haluska indicates that they have required the applicant to install an emergency fuel shut off valve and require that stand by fees be paid for commercial use, which will be \$205 for this year. This is the 2<sup>nd</sup> conditional use, whereas the applicant previously showed there was a need for a staging area in the County and the ideal location is the Bowler property in Veyo, which was previously used by IPP, Kern River and UNEV Pipeline. There is a lease agreement with Carl Bowler for the period of one (1) year on an annual basis. In order to have electricity for the office trailer they have submitted a 2<sup>nd</sup> Conditional Use Permit on the Bowler arena property approximately one-half mile east of the previously approved staging area. Building Official Kurt Gardner has completed an onsite review of containment area and has updated photos for the commission's review.

Kurt Gardner, Building Official, reviewed the photos of the site with commission. He explained the storage tank containment area is 25' X 65' and 2' deep, which holds approximately 24,000 gallons. The largest tank is 9,600 gallons and according to the International Fire Code the containment area only needs to be able to contain the amount of the largest tank plus the rainfall in a twenty four hour period. The berm area is well over capacity. The applicant has fire extinguishers and a shut off switch in place. The fueling area does not have any requirements in the International Fire Code.

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Chairman Stucki inquired about the barrier used in the fueling area. He said a barrier is available that will not break as trucks go across it.

Monte Kester, applicant, explained that the trucks are equipped to catch spills; that is a requirement of the BLM.

The Planner noted that Steve Haluska of the fire district said he did inspect the shut off valve, but their fees have not yet been paid. The applicant said he has the check to pay those fees.

Commissioner Balen said she does not have concerns about the fueling area if the trucks are equipped to handle spills.

Chairman Stucki said he does not think they have done enough on the refueling area. He spoke with a man who has worked for Exxon for thirty (30) years and he said they require an impermeable barrier, so it can not leak down into the water table. He was concerned about the water source becoming contaminated.

**Motion was made by Commissioner Everett to recommend approval of the Conditional Use Permit to locate an office trailer, gas storage and porta potties, in Veyo, for a period of one year. Commissioner Ford seconded the motion, with all five (5) commissioners voting aye.**

**Item #3. PUBLIC HEARING** Open hearing for a zone change on Agricultural 20 acres to Residential Estates 2.5 and 40,000 square feet zone in Pine Valley in the unincorporated area. Kent Sunberg, applicant.

**This item was withdrawn by the applicant.**

**Item #4. ZONE CHANGE:** Request permission for a zone change from A-20 (Agricultural 20 acres) to RE -2.5 (Residential Agricultural 2.5 and 40,000 square feet) zone, a portion of Sections 15, T39S, R15W, SLB&M, generally located in Pine Valley in the unincorporated area. Kent Sunberg, applicant.

**This item was withdrawn by the applicant.**

**Item #5. WORK MEETING: DISCUSSION ITEM/GENERAL PLAN AMENDMENT**  
Review public sections of the General Plan with the County Commission, Washington County General Plan of 2010. County initiated.

The Planner stated the County Commission would like to review the topics below:

- 1) RS2477 Roads included - Review by Ron Whitehead
- 2) Water District Comments - Written comments coming from Barbara Hjelle
- 3) Cities to review
- 4) Review fire sections

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Previously, John Willie has presented all the materials on the General Plan for the public lands portion reviewing Section I. Introduction to the General Plan; Section II. General Information regarding Public Lands in Washington County; Section III. The Bureau of Land Management; Section IV. The National Forest; Section V. Zion National Park; Section VI. School and Institutional Trust Lands; Section VII. General Information regarding Private Land in Washington County; and Appendix I. General Analysis of Each Wilderness Area, Community Maps and General Plan Map. This has been properly advertised and effected entities notified. The planning commission has made facts and findings recommending approval to the County Commission. This will go before the County Commission after further review.

Dean Cox, County Administrator, noted the commissioners are running late due to a meeting at Dixie College. He thanked the Planning Commission for their service on the board. He said the General Plan is an extremely important document that provides for the growth and future of the county. The county Commissioners had a few concerns that we may not have received all the input necessary to make sure it is correct. He included that the Washington County Water Conservancy District pointed out their concerns about water on the Beaver Dam. He spoke of the section in the General Plan that states there is water in Washington County that we may not be able to use, that we may want to lease or sell to Nevada. Mr. Thompson, of WCWCD, is adverse to that language being in the plan because it may give ammunition to large water authorities, outside of the state of Utah, which are looking for additional sources of water, to come back and say it is in our General Plan. Mr. Cox is an expert on the fire section of the plan and he does see areas he would like to have the emergency manager review for accuracy. Also, the county plan has the potential to impact the cities; therefore, the county should give them an opportunity to review and comment on the plan. He briefly discussed RS 2477 roads and Kane County's recent victories.

The commission discussed further with Mr. Cox the Beaver Dam Wash; noting that the use it or lose rule on water rights does not apply to municipalities. They discussed how the water was adjudicated, as well as the role of the federal government over water.

Jim Eardley, County Commissioner, clarified that Washington County is in the lower basin and it may be easier to do a water exchange where Washington County allows that water to run into Lake Mead in exchange for a greater allocation from the Virgin River.

Alan Gardner, County Commissioner, said the concern was with having it in print where it may be forced upon us later.

Todd Edwards, County Engineer, informed the commission that several cities filed water rights on the Beaver Dam Wash in the early nineties and the WCWCD is working to keep those rights active.

**Item #6. DISCUSSION ITEM/CONDITIONAL USE PERMIT** Discussion on request to locate wind towers on State Land near Anderson Junction. Jerry Eves/Southwest Energy, applicant and Bob Mason, agent.

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The Planner informed the commission that the applicant is here to discuss their request to locate wind towers on State Land near Anderson Junction. She showed an aerial of the location, as well as their site plan.

Jerry Eves, Southwest Energy, said they have taken this project before Toquerville City Council and they have approved it subject to the approval of the county. In reviewing the county requirements with their engineer, they realized they did not meet the county's requirement of being ½ mile from a residential zone, therefore they have eliminated three wind towers on the east side. He discussed the reservoir and the excavated pond for hydro pydro storage. He noted the hydro storage will generate 3.8 megawatts of power for eight (8) hours. Their site will also be used by colleges. Mr. Eves described how quiet the new wind turbines are. He discussed BLM's setback requirements and their environmental study. He noted the uniqueness of this site and how it was selected; adding that Washington County has the three top sites for wind energy.

Kim Hafen, County Clerk/Auditor, inquired if this property was previously known as Zion Winds and noted they are delinquent on their taxes.

**Item #7. DISCUSSION ITEM/WIRELESS COMMUNICATION FACILITIES** Review and consider amendment on wireless telecommunication facilities to establish minimum requirements and regulations of such systems, Chapter 21 of the Washington County Zoning Ordinance. County initiated.

The Planner said the County Deputy Attorney, Rachelle Ehlert has been working with the planning commission on this ordinance for the past 6 months, since the implementation of pending Land Use Ordinance Review presentation on wireless communication facilities on March 9, 2010. This amendment will be for wireless communication facilities Chapter 21 of the Washington County Zoning Ordinance. Rachelle will present samples and has recommended something similar to what St. George City has recently adopted. Staff agrees that these changes could be reviewed by going directly to the advertising process for a hearing on the 12th of October.

Rachelle Ehlert, Deputy Attorney, discussed the book on Utah law and federal regulations. She said there are a lot of public comments on RF emissions and health concerns and that is regulated by the FCC. The Planning Commission will not need to address these topics. She distributed case laws and model ordinances for the commissions review. The importance of a good ordinance and facts and findings was emphasized. She noted the FCC requirement that decisions be put in writing and how some courts found minutes to be sufficient and some courts did not. In regards to amateur radio, she said Morgan County has a good ordinance and they allow up to 75' as a permitted use; suggesting the planning commission consider that. She suggested using St. George City's ordinance, on wireless telecommunication, as a base.

Chairman Stucki expressed that he was more concerned with serviceability than the visual aspects, like St. George City. A lot of their ordinance is aesthetics not functionality. The

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commission agreed that our cell service is not good enough that we can restrict towers from certain zones but they can require collocation.

It was decided to use St. George City's ordinance as a base and the commission would make recommended changes at the next work meeting.

**Item #8. COUNTY COMMISSION ACTION REVIEW** Review of action taken by the County Commission on Planning Items. County initiated.

The Planner reviewed action taken on Planning Items by the Washington County Commission on September 22, 2010, beginning at 4:00 p.m.: (a) Conditional use extension on installation of a 2nd 196 foot steel lattice tower at the BLM Blackridge site, within the OSC zone, off I-15 at Exit 36... Verizon Wireless, applicant; (b) Conditional use permit extension on establishing a private recreation area and facilities on 30.06 acres within the FR-5 (Forest Residential 5 acres) zone, generally located south of Pine Valley Townsite... Lester Wittwer Investment Co./Shayne Wittwer, applicant; (c) Conditional use permit extension for endurance mountain bike racing, "Frog Hollow Event", on Sheep Bridge Road, generally located between Virgin and Hwy 59 east of Hurricane, October 9, 2010, 6 hour event and November 6<sup>th</sup> & 7<sup>th</sup>, 2010, 24 hour event, a portion within the County unincorporated area... GRO-Promotions, LLC/Cimarron Chacon, applicant; (d) Conditional use permit extension on a sales office for the Kolob Ranch development on the west side of the freeway at the Kolob Exit off Interstate 15... Kolob Development, Inc./Robert Anderson, applicant; and (e) Conditional use permit to build the Gunlock Filter Station generally located one mile south of the Gunlock Reservoir... Washington County Water Conservancy District/Doug Wilson, applicant.

**The Planner said all the above items were approved by the County Commission based on the recommendations of the Planning Commission.**

**Item # 9. COMMISSION & STAFF REPORTS:** General reporting on various topics. County initiated.

Commissioner Ford commented on the community meeting held in New Harmony last week and suggested the county come up with a better way to communicate with the residents.

Commissioner Ford made a motion to adjourn the meeting. Commissioner Wilson seconded the motion, with all five (5) commissioners voting aye. There being no further business at 3:35 p.m., Chairman Stucki adjourned the meeting.

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Darby Klungervik, Planning Secretary